

## REMARKS

Claims 16, 18, 22 and 25-31 are pending.

### *Claim Rejections- 35 USC § 103*

The Patent Office rejected claims 16, 18, 22 and 25-31 as being unpatentable over Chait et al., United States Patent 5,639,471 (Chait) in view of Brown, United States Patent 6,246,992 (Brown) in further view of "Multidimensional evaluation of monetary incentive strategies for weight control" by Mavis et al. (Mavis).

Applicant respectfully traverses. Applicant respectfully submits that U.S. Patent 6,242,992 issued to Stephen J. Brown is not proper prior art under 35 U.S.C. § 103 as not falling under any section of 35 U.S.C. §102. The present application is invented by Stephen J. Brown, the same inventor of United States Patent 6,242,992. Since Stephen J. Brown invented the subject matter of the present application, U.S. 6,242,992 is not an application for patent "by another" as required in 35 U.S.C. §102(e). U.S. 6,242,992 was not published prior to the invention of the present application, consequently, 35 U.S.C. §102(a) and 35 U.S.C. §102(b) are not applicable.

To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Ryoka*, 180 U.S.P.Q. 580 (C.C.P.A. 1974). See also *In re Wilson*, 165 U.S.P.Q. 494 (C.C.P.A. 1970). The Patent Office is correct in its assertion that Chait and Mavis fail to disclose each element of claims 16, 18, 22 and 25-31. (Office Action of May, 24, 2006, Page 3). Consequently, under *in re Ryoka*, a *prima facie* case of obviousness is not present. Claims 16, 18, 22 and 25-31 should be allowed

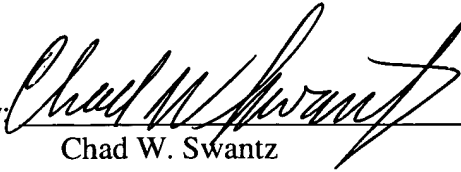
CONCLUSION

In light of the forgoing, reconsideration and allowance of the claims is earnestly solicited.

Respectfully submitted,  
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By



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